

# DO I NEED TO NOTIFY?

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**All data controllers are required by the Data Protection Act 2002 to notify the Office of the Data Protection Supervisor of any processing of personal data they undertake unless they are exempt from the requirement to notify.**

The Act provides exemption from the requirement to notify in certain circumstances for some data controllers.

An exemption from the requirement to notify exist for:

- data controllers who only process personal data for the three core business purposes:
  - staff administration (including their own payroll)
  - advertising, marketing and public relations (of their own business)
  - accounts and records
- some "*not for profit*" organisations
- processing personal data for domestic purposes only i.e. personal, family or household affairs ONLY (including recreational purposes)
- data controllers who only process personal data for the maintenance of a public register
- data controllers who do not process personal data on computer

## **How do I decide whether I need to notify?**

A series of questions has been designed to help you determine whether you are required to notify or whether you qualify for an exemption from notification. **Please work through the questions which appear on the following pages.**

## **Contact Details for Correspondence**

The Office of the Data Protection Supervisor  
PO BOX 69  
Douglas  
Isle of Man  
IM2 2EF

You may also contact the office:

By Telephone	01624 693260
By Email	<a href="mailto:enquiries@odps.gov.im">enquiries@odps.gov.im</a>
Web site address	<a href="http://www.gov.im/odps">www.gov.im/odps</a>

Q.1

**Are you processing**

*Personal Data?*



Q.2

No requirement to notify

### **Personal data**

Personal data means data which relate to a **living** individual who can be identified from those data or from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller.

### **Processing**

Processing means obtaining, recording or holding the data or carrying out any operation or set of operations on the data. It includes organising, adapting and amending the data, retrieval, consultation and use of the data, disclosing and erasure or destruction of the data. It is difficult to envisage any activity involving data which does not amount to processing.

Q.2

**Is any of your processing**

*'automatic'?*



Q3

No requirement to notify

### **Automatic Processing**

Automatic processing includes the use of any type of computer however described, for example mainframe, desk top, lap top, palm top etc. It also includes the use of other types of equipment which, although not normally described as computers, nevertheless have some ability to process automatically e.g. automatic retrieval systems for microfilm and microfiche, audio and visual systems, electronic flexi-time systems and telephone logging equipment and CCTV systems.

If none of your processing is carried out automatically there is no requirement to notify.

**Q.3**

**Are you a  
*Data Controller?***



**Q4** No requirement  
to notify

**Data controller**

Data controller means a person who (either alone or jointly or in common with other persons) determines the purpose for which and the manner in which any personal data are, or are to be, processed.

If you are a data processor (any person - other than an employee of the data controller - who processes data on behalf of the data controller) there is no requirement to notify.

#### Q.4

**Are you processing personal data for any of the following purposes?**

- Accountancy/auditing
- Administration of justice and legal services
- Advertising, marketing, pr for others
- Constituency casework and political campaigning
- Credit reference agency
- Crime prevention and prosecution of offenders (including use of CCTV for these purposes)
- Crime prevention and prosecution of offenders – Anti Money-Laundering Code Requirements (AMLCR)\*
- Debt administration and factoring
- Education
- Gaming/gambling operations
- Insurance administration
- Licensed investment business
- Regulated licensed activity
- Pastoral care
- Private investigation
- Property management
- Research
- Telecommunications
- Trading and sharing in personal information
- Transport
- Vetting
- Accounts and records\*\*



**You are required to notify**



**Q5**

#### **Non-exempt purposes**

**You will NOT be exempt if you are processing personal data for any of the purposes listed in the column on the left.**

This is NOT an exhaustive list but illustrates the most common purposes where there is a requirement to notify.

Data controllers who are unlikely to be exempt include accountants, liquidators, advocates, legal practitioners, consultants, dentists, doctors, employment agencies, financial advisers, and schools

\* Any business or organisation required to maintain anti money laundering reporting records or are subject to the requirements of the Anti Money-Laundering Code will **not** be exempt from notification. This includes estate agents, bureau de change, bookmakers and casinos.

\*\*Although 'Accounts and Records' is one of the exempt purposes, if you process personal data which has been processed by or obtained from a CREDIT REFERENCE AGENCY, the exemption is not available and you are required to notify.

Q5.

Are you *only* processing personal data for personal, family, or household affairs?



No  
requirement  
to notify

Q6

### Personal, family and domestic

**Individuals** are exempt from notification if the only data processed are for personal, domestic and household affairs (including recreational purposes).

Examples might be a personal address list, Christmas card list or data held in connection with a hobby.

It does not apply to individuals who hold personal data for business or professional purposes.

Q.6

Are you *only* processing personal data to maintain a public register?



No  
requirement  
to notify

Q.7

### Public registers

There is a specific exemption from notification for any processing whose sole purpose is the maintenance of a register public.

**The exemption only applies in respect of the personal data which the data controller is required to make publicly available by law.**

Q.7

Are you a *not for profit* organisation?



Q8

Q9

### Not for profit organisation

There is a specific exemption from notification for a data controller which is a body or association not established or conducted for profit **provided** their processing **does not fall outside the descriptions in Questions 8 and 9.**

## Q.8

**As a *not for profit organisation* is all of the processing covered by the following descriptions?**

### **Your processing is only**

for the purposes of establishing or maintaining membership or support for a body or association not established or conducted for profit, or providing or administering activities for individuals who are either members of the body or association or have regular contact with it.

### **Your data subjects are restricted to**

- any person the processing of whose personal data is necessary for this exempt purpose.

### **Your data classes are restricted to**

- data which are necessary for this exempt purpose.

### **Your disclosures to recipients other than those made with the consent of the data subjects are restricted to**

- those third parties which are necessary for this exempt purpose.

### **Retention of the data**

- The personal data are not kept after the relationship between you and the data subject ends, unless and for so long as it is necessary to do so for the exempt purpose



No  
requirement  
to notify



Q.9

## **The exempt purpose for “not for profit” organisations**

This exempt purpose is intended for small clubs, voluntary organisations, church administration and some charities.

Further guidance on this exemption is available by contacting the Office.

Data Subject Examples are:

past, existing or prospective members or those who have regular contact with the organisation.

Data Class Examples are:

names, addresses, identifiers or eligibility for membership.

## Q.9

You **do not** have to notify if the *only*\* processing you carry out is for one or more of these purposes:

- Staff administration
- Advertising, marketing and public relations
- Accounts and records

Please read the following information about each of the exempt purposes to determine whether or not you are exempt.

### Staff administration

This is processing for the purposes of appointments or removals, pay, discipline, superannuation, work management or other personnel matters in relation to your staff.

#### Your data subjects are restricted to

- any person the processing of whose personal data is necessary for staff administration.

#### Your data classes are restricted to

- data which are necessary for staff administration.

#### Your disclosures to recipients other than those made with the consent of the data subject are restricted to

- those third parties which are necessary for staff administration.

#### Retention of the data

- The personal data are not kept after the relationship between you and the data subject ends, unless and for so long as it is necessary to do so for staff administration.

### Exemptions for core business purposes

These purposes are sometimes referred to as the 'three core business purposes'.

Typically they would relate to a small business which processes personal data only for these purposes to support its primary activity.

You must read the description of each purpose to ensure that you only process personal data covered by one or more of each description.

\* A *not for profit* organisation may also carry out processing covered by the description in Q.8

### Staff administration

The term **staff** includes all employees, office holders, temporary and casual workers, agents and volunteers.

This purpose includes all personnel and work management matters. **The provision of payroll services to clients does not fall within this exemption.**

Data Subject Examples are:

past, existing or prospective members of staff

Data Class Examples are:

qualifications, work experience, pay and performance.

Recipients example:

Income Tax

## Q. 9 (continued)

### **Advertising, marketing and public relations**

This is processing for the purposes of advertising or marketing **your** business, activity, goods or services and promoting public relations only in connection with that business or activity, or those goods or services.

#### **Your data subjects are restricted to**

- any person the processing of whose personal data is necessary for **your** own advertising, marketing and public relations.

#### **Your data classes are restricted to**

- data which are necessary for your advertising, marketing and public relations.

#### **Your disclosures to recipients other than those made with the consent of the data subject are restricted to**

- those third parties which are necessary for your advertising, marketing and public relations.

#### **Retention of the data**

- The personal data are not kept after the relationship between you and the customer or supplier ends, unless and for so long as it is necessary to do so for your advertising, marketing and public relations.

### **Exemptions for advertising, marketing and public relations**

This exemption only applies to data controllers who are advertising and marketing **their own** goods and services.

If you obtain personal data from a third party for the purpose of marketing your own goods and services, you will not lose the exemption.

#### **If you are marketing goods and services for others, you will need to notify.**

Data Subject Examples are:

past, existing or prospective customers or suppliers.

Data Class Examples are:

names, addresses and other identifiers.

Recipient Example is:

Mail Service Providers

## Q. 9 (continued)

### **Accounts and records**

**This is processing for the purposes of keeping accounts relating to any business or other activity carried on by you, or deciding whether to accept any person as a customer or supplier, or keeping records of purchases, sales or other transactions for the purpose of ensuring that the requisite payments and deliveries are made or services provided by you or to you in respect of those transactions, or for the purpose of making financial or management forecasts to assist you in the conduct of any such business or activity.**

#### **Your data subjects are restricted to**

- any person the processing of whose personal data is necessary for your accounts and records.

#### **Your data classes are restricted to**

- data which are necessary for your accounts and records. This excludes personal data processed by or obtained from a credit reference agency.

#### **Your disclosures to recipients other than those made with the consent of the data subject are restricted to**

- those third parties which are necessary for accounts and records.

#### **Retention of the data**

- The personal data are not kept after the relationship between you and the customer or supplier ends, unless and for so long as it is necessary to do so for your accounts and records.

### **Exemption for accounts and records**

This exemption covers the administration of customer and supplier records.

It includes processing relating to making a decision about whether or not to do business with a particular customer or supplier **but specifically excludes personal data processed by or obtained from a credit reference agency.**

**It also excludes data controllers who are providing accounting services to customers.**

Data Subject Examples are:

past, existing or prospective customers or suppliers.

Data Class Examples are:

name, address, credit card details.

Recipient example:

external auditors.